

# **TITLE 326 AIR POLLUTION CONTROL BOARD**

## **FIRST NOTICE OF COMMENT PERIOD**

**#00-XX(APCB)**

### **DEVELOPMENT OF NEW RULES CONCERNING EMISSIONS OF NITROGEN OXIDES**

#### **PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on new rules that would control emissions of nitrogen oxides from Indiana sources.

IDEM seeks comment on the affected citations listed and any other provisions of Title 326 that may be affected by this rulemaking.

**CITATIONS AFFECTED:** 326 IAC 10.

**AUTHORITY:** IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11.

#### **SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING**

On September 24, 1998, U.S. EPA issued a rule (NO<sub>x</sub> SIP call) that requires each of twenty-two (22) states in the eastern United States, including Indiana, to reduce its emissions of nitrogen oxides. The federal rule requires electric utility boilers, large industrial boilers, cement kilns, and stationary internal combustion engines to reduce nitrogen oxide or NO<sub>x</sub> emissions significantly by 2007. The rule is intended to reduce the transport of ozone and ozone causing pollutants that occurs in this multi-state region.

On May 25, 1999, the U.S. Court of Appeals for the D.C. Circuit issued a stay of the deadline to respond to the NO<sub>x</sub> SIP call until further order of the court. The court ruled on the merits of the litigation concerning the NO<sub>x</sub> SIP call on March 3, 2000. The court upheld U.S. EPA's actions for the most part, although U.S. EPA will have to revisit the establishment of the control requirements for internal stationary combustion engines and will have to revise the number of states that will be required to respond to the NO<sub>x</sub> SIP call. The court has not yet lifted the stay imposed in May 1999.

There are several areas within Indiana that do not currently meet the one (1) hour ozone health standard. The Clean Air Act and U.S. EPA guidance require that Indiana develop and implement plans to bring air quality in those areas into attainment with the health standard. For Clark and Floyd counties, the attainment date is 2003. For Lake and Porter counties, the attainment date is 2007 and the attainment plan must be submitted to U.S. EPA by December 2000. For these reasons, Indiana proceeded with development of a NO<sub>x</sub> control rule that achieves the reductions necessary to achieve attainment of the one (1) hour ozone standard. However, that rulemaking does not include the reductions necessary to respond to the NO<sub>x</sub> SIP call.

U.S. EPA has indicated that, if and when the court lifts the stay of the NO<sub>x</sub> SIP call, it will require expeditious submission of NO<sub>x</sub> rules by states. Therefore, in anticipation of the lifting of the stay for the NO<sub>x</sub> SIP call and ultimate resolution of the court challenge, IDEM is now commencing a rulemaking to implement the requirements of the NO<sub>x</sub> SIP call.

IDEM seeks comment from interested parties on ways to achieve the NO<sub>x</sub> reductions required by U.S. EPA's rule.

## **STATUTORY AND REGULATORY REQUIREMENTS**

IC 13-14-8-4 requires the board to consider the following factors in promulgating rules:

- (1) All existing physical conditions and the character of the area affected.
- (2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- (3) Zoning classifications.
- (4) The nature of the existing air quality or existing water quality, as the case may be.
- (5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- (6) Economic reasonableness of measuring or reducing any particular type of pollution.
- (7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to human, plant, animal, or aquatic life or to the reasonable enjoyment of life and property.

## **REQUEST FOR PUBLIC COMMENTS**

At this time, IDEM solicits the following:

- (1) The submission of alternative ways to achieve the purpose of the rule.
- (2) The submission of suggestions for the development of draft rule language.

Comments, whether mailed, hand-delivered, or faxed, should be addressed as follows:

#00-XX(APCB) NO<sub>x</sub> SIP Call  
Kathryn Watson, Chief  
Air Programs Branch  
Office of Air Management  
Indiana Department of Environmental Management  
P.O. Box 6015  
Indianapolis, Indiana 46206-6015.

Hand delivered comments will be accepted by the receptionist on duty at the tenth floor reception desk, Office of Air Management, 100 North Senate Avenue, Indianapolis, Indiana, Monday through Friday between 8:15 a.m. and 4:45 p.m.

Comments may be submitted by facsimile at the IDEM fax number: (317) 233-2342, Monday through Friday between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules Development Section at (317) 233-0430.

## **COMMENT PERIOD DEADLINE**

Comments must be postmarked, hand delivered or faxed by July 31, 2000.

Additional information regarding this action may be obtained from Roger Letterman, Office of Air Management, (317) 232- 8342 or dail (800) 451-6027, press 0 and ask for extension 2-8342 (in Indiana).